



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

word 'Paid' stamped upon a draft 'had no tendency to establish an acceptance,' because it did not evidence 'an agreement or promise to do something.' To the same effect is *Elyria Savings & Banking Co. v. Walker Bin Co.*, 92 Ohio St. 406, 111 N. E. 147, L. R. A. 1916D, 433, Ann. Cas. 1917D, 1055, 1056. See, also, 2 Michie on Banks and Banking, 1129. Stamping the word 'Paid' did not of itself produce an acceptance of the check."

Descent and Distribution—Inheritance by Slayer of Victim's Property.—In *Hamblin v. Marchant*, 175 Pac. 678, the Supreme Court of Kansas held that sec. 3856 of the Kansas General Statutes of 1915, providing that one who wrongfully takes the life of another cannot acquire the latter's property by inheritance or devise, applies to a woman who kills her husband by shooting him, for which she is afterward convicted of manslaughter in the third degree.

The court said: "On July 10, 1915, John A. Marchant owned an undivided one-half interest in the land in controversy. On that day he was shot and killed by defendant Edna Marchant, who was then his wife. They had no children. Edna Marchant was afterwards convicted of manslaughter in the third degree for killing her husband. Edna Marchant claims that she is the only heir of John A. Marchant, deceased, and that she is therefore the owner of an undivided one-half interest in the real property. She claims that section 3856 of the General Statutes of 1915 does not apply to persons convicted of manslaughter in the third degree. That section reads: 'Any person who shall hereafter be convicted of killing or of conspiring with another to kill, or of procuring to be killed, any other person from whom such person so killing or conspiring to kill or procuring said killing would inherit the property, real, personal, or mixed, or any part thereof belonging to such deceased person at the time of death, or who would take said property by deed, will or otherwise, at the death of the deceased, shall be denied all right, interest and estate in or to said property or any part thereof, and the same shall descend and be distributed to such other person or persons as may be entitled thereto by the laws of descent and distribution, as if the person so convicted were dead.'

"In *McAllister v. Fair* (72 Kan. 533, 84 Pac. 112, 3 L. R. A., N. S., 726, 115 Am. St. Rep. 233, 7 Ann. Cas. 973), decided in 1906, this court declared that a husband inherits his intestate wife's property, although he killed her for the purpose of acquiring that property. The 1907 session of the legislature passed the statute quoted, apparently for the purpose of changing the rule of law declared by the court. The language of the statute is broad and includes every person who may take property from a deceased person in either of the

ways named in the statute. The statute says any person who shall hereafter be convicted of killing any other person, etc. A conviction for manslaughter is a conviction for killing. John A. Marchant was killed by his wife, who shot him. That act was within the statute.

"It is contended that Edna Marchant did not inherit nor otherwise take from her husband. Then how does she claim any right to the property? If she has any right, that right comes from our statute of descents and distributions. She acquires no right to her husband's property, except by virtue of that statute. It does not matter whether that right is acquired by inheritance or by contract growing out of the marriage relation. Edna Marchant either inherited the property or otherwise took it from her husband, unless section 3856 prevents her from acquiring it. That section controls, and prevents her from taking the property under any circumstances.

"The constitutionality of the statute is questioned. It is argued that it violates section 10 and 12 of the Bill of Rights, and section 6, article 6, of the State Constitution, and that it also violates the Fourteenth Amendment to the Constitution of the United States. It is argued that the statute is penal and works a forfeiture. So far as the present action is concerned the statute changed the law of the devolution of property on the death of the owner. The Legislature has entire control of that matter. The law of descents and distributions prescribes the way in which property shall go on the death of the owner, and the statute in question is merely an exception to the general rules prescribed by the statute of descents and distributions.

"The statute in question is a part of the law of descents and distributions, and it provides that the property of a deceased owner shall not go to the person who took the owner's life. Whether the person to whom the property would ordinarily go took the owner's life is a question that must be judicially determined by a court of competent jurisdiction. The Legislature has seen fit to say that the fact must be ascertained in a criminal prosecution in which the person who would take the property is charged with killing the owner. When that fact is ascertained, the property is not then taken from the person who would inherit, but it is then determined that the person never did inherit and never did acquire any interest in the property. The statute is not penal, it does not add anything to the punishment of the person convicted; neither does it provide for a forfeiture, and nothing is taken from the person convicted. Edna Marchant never acquired nor received anything that could be taken from her. It follows that neither of the constitutional provisions mentioned has been violated by the statute. The conclusion reached is supported by *Perry v. Strawbridge* (209 Mo. 621, 108 S. W. 641, 16 L. R. A., N. S., 244, 123 Am. St. Rep. 510, 14 Ann. Cas. 92)."